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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FREE SPEECH COALITION, INC., et al.)	CASE NO.
)	
Plaintiffs,)	JUDGE 09 4607
)	
-vs-)	
)	<u>ORDER GRANTING MOTION FOR</u>
THE HONORABLE ERIC H. HOLDER, JR.,)	<u>PRELIMINARY INJUNCTION</u>
Attorney General,)	
)	
Defendant.)	

Having reviewed the evidence adduced at hearing and having determined that Plaintiffs have established: (1) a reasonable probability of success on their claims asserting that 18 U.S.C. § 2257, 18 U.S.C. § 2257A and their implementing regulations are unconstitutional on their face and as applied; (2) that they will suffer irreparable injury if the injunction is denied; (3) that granting the injunction will not result in greater harm to Defendant; and (4) the public interest favors such relief, this Court grants Plaintiffs' motion for a preliminary injunction enjoining Defendant, his officers, agents, servants, employees, and attorneys, and those in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from enforcing 18 U.S.C. § 2257 and 18 U.S.C. § 2257A and their implementing regulations against Plaintiffs, their members, officers, directors, employees and agents.

Judge
United States District Court for the Eastern
District of Pennsylvania

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FREE SPEECH COALITION, INC., et al.

Plaintiffs,

-vs-

THE HONORABLE ERIC H. HOLDER, JR.,
Attorney General,

Defendant.

) CASE NO.

) JUDGE

) PLAINTIFFS' MOTION FOR
) PRELIMINARY INJUNCTION AND
) REQUEST FOR EVIDENTIARY
) HEARING WITH MEMORANDUM OF
) LAW IN SUPPORT
)

FILED

OCT - 7 2009

MICHAEL E. KUNZ, Clerk
By Dep. Clerk

Plaintiffs, by and through counsel, pursuant to Fed. R. Civ. P. 65, respectfully move this Court for a preliminary injunction enjoining Defendant, his officers, agents, servants, employees, and attorneys, and those in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from enforcing 18 U.S.C. § 2257 and 18 U.S.C. § 2257A and their implementing regulations against Plaintiffs, their members, officers, directors, employees and agents.

This is an action challenging the constitutionality of 18 U.S.C. § 2257 and 18 U.S.C. § 2257A and their implementing regulations. Plaintiffs are comprised of a broad array of producers and users of expression that has as its theme, the "great and mysterious motive force in human life...[which] has indisputably been a subject of absorbing interest to mankind through the ages," that being, sex. *Roth v. U.S.*, 354 U.S. 476, 487 (1957). Their production of and access to constitutionally protected expression has been and is being burdened by 18 U.S.C. §§ 2257, 2257A. Plaintiffs include the Free

Speech Coalition, Inc., a trade association composed of individuals and businesses involved in the production and sale of adult entertainment, and dedicated to First Amendment principles; the American Society of Media Photographers, Inc.; visual artists; photographers; educators; performers; other commercial producers of adult expression; and persons engaged in the dissemination of sexually explicit materials.

Title 18 U.S.C. § 2257 and 18 U.S.C. § 2257A require that all producers of visual depictions containing actual or simulated sexually explicit imagery create and maintain records consisting of, *inter alia*, government-issued photo identification for each individual appearing in the depictions, which must be made available for government inspection. Each visual depiction must also be prominently labeled with a notice identifying the location of the records. Failure to comply with the statutory mandates are punishable by imprisonment. Moreover, the statutes allow the government to use the information from these compelled records as evidence in prosecuting violations of the federal obscenity laws.

The statutes and regulations implementing them authorize warrantless searches and seizures in furtherance of their enforcement.

Plaintiffs contend that 18 U.S.C. § 2257, 18 U.S.C. § 2257A and their implementing regulations unconstitutionally restrain, chill and burden expression in violation of the First Amendment and violate the Fourth and Fifth Amendments. Plaintiffs will suffer immediate and irreparable injury if a preliminary injunction does not issue.

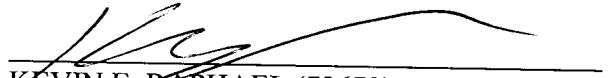
The grounds for this motion are more fully discussed in the Memorandum of Law that accompanies this Motion.

Plaintiffs request that this Court convene an evidentiary hearing on this Motion.

For the reasons contained herein, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion for Preliminary Injunction.

Respectfully submitted,

Date: 10/7/09


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